

FILED

DECEMBER 10, 2007

MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT

07 C 6938

JUDGE MANNING
MAGISTRATE JUDGE COLE

EXHIBIT A

4345 DiPalo Center, Glenview, IL 60025, its successors and assigns, hereinafter referred to as the "EMPLOYER", First Party, and LOCAL 150, INTERNATIONAL UNION OF OPERATING ENGINEERS, hereinafter referred to as the "UNION", Second Party.

THIS AGREEMENT is made in consideration of the instant promises of the First and Second Parties and the parties do hereby agree as follows:

1. The EMPLOYER recognizes the UNION as the sole and exclusive bargaining representative for and on behalf of the employees of the EMPLOYER within the territorial and occupational jurisdiction of the UNION. Prior to recognition, the EMPLOYER was presented and reviewed valid written evidence of the UNION's exclusive designation as bargaining representative by the majority of appropriate bargaining unit employees of EMPLOYER.

2. The Parties agree that the EMPLOYER is part of a single bargaining unit made up of all employers party to the Master Agreement adopted herein.

3. The Parties do hereby adopt the Master Agreement dated June 1, 2001 entered into by and between the UNION and the Excavators, Inc.

Heavy and Highway and Underground Agreement and the parties do hereby mutually agree to be bound by the terms and conditions of that Master Agreement and the Agreement and Declaration of Trust of the Midwest Operating Engineers Pension Plan, Midwest Operating Engineers Welfare Plan, Local 150 I.U.O.E. Vacation Savings Plan and the Local 150 Apprenticeship Fund, and all amendments heretofore or hereafter made thereto, as though the same were fully incorporated herein. The Employer acknowledges that he has received a copy of the aforesaid Master Agreement, that he has reviewed same and that he is aware of the obligations arising thereunder.

4. This Agreement and the adoption of the Master Agreement and the Agreements and Declarations of Trust referred to in paragraph 3 above, shall be effective as of May 3, 2006

_____ and remain in effect to and including the expiration date of the Master Agreement adopted herein. This Agreement shall continue in effect from year to year thereafter and specifically adopt any Master Agreement entered into between the Union and Excavators, Inc.

Heavy and Highway and Underground Agreement subsequent to the expiration date of the Master Agreement herein adopted unless notice of termination or amendment is given in the manner provided herein.

5. Either Party desiring to amend or terminate this Memorandum of Agreement must notify the other in writing at least three (3) calendar months prior to the expiration of the Master Agreement adopted herein.

IN WITNESS WHEREOF, the Parties have executed this Memorandum of Agreement the

3rd day of May, 2006

Prairie Rock Excavating L.L.C.

Employer

By

Joe Baldo

President

Title

Phone: 847-390-9200

Fax: 847-390-9203

Form 150

OFFICE COPY

LOCAL 150, INTERNATIONAL UNION OF OPERATING ENGINEERS, AFL-CIO

By

William E. Dugan

Steven M. Cisco

Dabney McCain
Below this line for union use only

<input type="checkbox"/>	NO: Fringe Benefits - Unincorporated Owner/Operator
<input checked="" type="checkbox"/>	YES: Fringe Benefits - Bargaining Unit Employees
<input type="checkbox"/>	YES: Fringe Benefits - Employees Qualified Under 168 H

EXHIBIT

A

EXHIBIT B

COPY

HEAVY AND HIGHWAY AND UNDERGROUND AGREEMENT

between

EXCAVATORS, INC.

and the

INTERNATIONAL UNION OF OPERATING ENGINEERS

LOCAL 150, AFL-CIO

Effective

June 1, 2001

Through

May 31, 2007

EXHIBIT

tabbies

B

Excavators, Inc.

HEAVY HIGHWAY UNDERGROUNDTable of Contents

	<u>PAGE</u>
Intent	1
Purpose	1
 <u>Article I</u>	
Section 1 Bargaining Unit	2
Section 2 New and Unlisted Equipment	3
Section 3 Recognition	4
Section 4 Subcontractor	5
Section 5 Access to Premises	5
Section 6 No Discrimination	5
Section 7 Scope of Work	6
Section 8 Pre-Job Conference	7
Section 9 Prevailing Wage Scale	8
Section 10 Successor / Employers	8
Section 11 Assignment of Work	8
 <u>Article II</u>	
Union Shop	10
Management Rights	10
 <u>Article III</u>	
Section 1 Work Day and Work Week	11
Lunch Period	12
Call Off	13
Section 2 Holidays	15
Section 3 Overtime	15
Section 4A Payday for Employees During the Show-Up Time Period	16
Section 4B Payday for Employees Who Are Required to Work During Call Off	16
 <u>Article IV</u>	
Shift Work	16
 <u>Article V</u>	
Section 1 Severance Pay	18
Section 2 Wage Payment	18
Section 3 Transportation and Parking	19
Section 4 Duties of the Employer	19
Section 5 Insurance, Safety, Sanitation	20

<u>Article VI</u>		
Section 1	Maintenance and Heavy Duty Repair	20
Section 2	Loading and Unloading	22
Section 3	Moving	22
Section 4	Mechanics	23
Article VII	Craft Foreman	24
<u>Article VIII</u>		
Section 1(a)	Preparing Equipment	25
Section 2	Machinery Operation	27
Section 3	Machine Reference Guide	28
Section 4	Long Boom Pay	29
Section 5	Capacity Pay	29
Section 6	Augers and Drill Rigs	29
Section 7	Creter Cranes	30
Section 8	Truck Mounted Concrete Pumps and Conveyors	30
Section 9	Helicopters	30
Section 10	Underground Work	30
Section 11	Mining Machines – Boring Machines – Micro Tunneling	31
Section 12	Bobcats, Skidsteer Loaders, Forklifts Serving Brick Masons and Drills	32
Section 13	Tieback Machines	33
Section 14	Asphalt Plants	34
<u>Article IX</u>		
Section 1	Discharge	34
Section 2	Notice on Leaving Job	34
Section 3	Regular Assigned Engineers	34
Section 4	Changing From One Machine to Another	34
Section 5	Bobcats	35
Section 6	Idle Time –Class I, Class II Class III Equipment Class IV Equipment and Oilers	36
Article X	Duties of the Oiler	36
<u>Article XI</u>		
Section 1	Small Equipment	37
Section 2	Small Category Equipment Assignment	37
Section 3	Electric Submersible Pumps – Job Sites or Projects Combination A & C	39
	Combination D & B	40
Section 4	Electric Submersible Pumps – Tunnels, etc.	41

Article XII	Hiring	42
<u>Article XIII</u>		
Section 1	Grievances and Arbitration	42
	Step 1	43
	Step 2	43
	Step 3	43
Section 2	Jurisdictional Award	45
Article XIV	Job Steward	46
<u>Article XV</u>		
Section 1	Wage Rates and Fringe Benefits	46
	Class I	47
	Class II	52
	Class III	55
	Class IV	56
	Class V	57
	Winter Maintenance Work	58
	Hazmat Pay	58
Section 2	Fringe Benefits for First and Second Year Apprentices	58
	Fringe Benefits for Third and Fourth Year Apprentices	59
	Wages for Apprentices	59
	Establishment of Joint Labor Management Committee for Certification, Training / Testing Data Base	60
<u>Article XVI</u>		
Section 1	Welfare Fund	61
	Family and Medical Leave Act (FMLA)	64
Section 2	Pension Fund	64
Section 3	Vacation Fund	69
Article XVII	Apprenticeship and Skill Improvement Fund	71
Article XVIII	Dues Check Off	73
Article XIX	Industry Advancement Fund and Construction Industry Research and Service Trust Fund	74

Article XX		
Section 1	Penalty for Failure to Pay Pension and/or Health and Welfare and/or Vacation Contributions and/or Dues Check Off	76
Section 2	Penalty for Failure to Pay Wages	77
Section 3	Bonding of Employer	77
Section 4	Legitimate Picket Line	77
Article XXI	Contract Reopener	78
Article XXII	Savings Clause	78
Article XXIII	Entire Agreement of the Parties	79
	Effective Date	80
	Illustrations and Definition of Piggybacking	81
	Memorandum of Clarification / Sewage Plants	82
	Letter re Competition Committee	83
	Work Continuation Program	84
	Letter of Understanding dated June 1, 1987	85
	Labor Management Committee Trenching Machines	86
	Letter of Understanding dated June 1, 2001	87
	Arbitration Award	88
	Uniform Drug / Alcohol Abuse Program	89

EXCAVATORS, INC.

HEAVY AND HIGHWAY AND UNDERGROUND CONSTRUCTION AGREEMENT

JOINT AGREEMENT

THIS AGREEMENT, made and entered into this 1st day of June, 2001, by and between the Mid-America Regional Bargaining Association (MARBA), for and on behalf of the present and future members of its Member Associations, and the individual members thereof, individually and their successors and assigns, hereinafter for convenience, referred to as the "Employer" and the International Union of Operating Engineers, Local Union No. 150, AFL-CIO, hereinafter for convenience, referred to as the "Union".

INTENT

The terms and conditions of this Agreement relating to the employment of employees have been arrived at by means of collective bargaining and the Agreement shall be deemed to be the Agreement of each of the Associations named above and shall be binding on all parties hereto and their respective members. For the purpose of mutual convenience and standardization, this Agreement has been negotiated by and between the Union and the Joint Negotiating Committee of Associations.

PURPOSE

SUBJECT TO THE PROVISION OF THIS AGREEMENT, the purpose of this Agreement is to:

- a) Enter into a definite labor-management contract covering the wages, hours, conditions of work and terms of employment in the relationship between Employer and employee.
- b) Describe the respective rights and responsibilities of the Employer and the Union.
- c) Prevent strikes, lockouts and stoppages of work on account of contract or jurisdictional disputes by requiring prior arbitration procedure.
- d) Promote the efficiency and productivity of the construction industry.
- e) Protect the economic and employment welfare of the employees.
- f) Comply at all times with State and Federal Law governing labor-management relations.
- g) Provide the principle of Union Security.
- h) Preserve to the Employer the basic and intrinsic rights of management to decide and conduct its own operation in a competitive free enterprise system.
- i) Improve the local, state and national economy by quality performance.
- j) Observe and protect the public interest.

ARTICLE I

SECTION 1 - BARGAINING UNIT

The bargaining unit shall consist of all employees engaged in work covered by the occupational jurisdiction of the Union with reference to any and all of the classifications described in Article I, Section 7, "SCOPE OF WORK", wages, hours of work and all other terms and conditions of employment set forth in this

Agreement and the operation, maintenance, repair, moving, dismantling and assembly of all machines used on work coming within the occupational jurisdiction of the Union regardless of motive power, and/or mode of control.

The bargaining unit shall also include, for the purposes of Article XVI, Sections 1 and 2, and for such purposes only, such persons in the employ of an Employer herein referred to as "Supervisors", defined in the LMRA, as amended, as follows:

...have authority, in the interest of an Employer, to hire, transfer, suspend, lay-off, recall, promote, discharge, assign, reward, or discipline, other employees, and who have responsibility to direct them or adjust their grievances, or effectively recommend such action, if in connection with the foregoing, the exercise of such authority is not merely of a routine or clerical nature, but requires the use of judgment.

and, provided, further, that such Supervisor:

(a) has heretofore been included as a member of the "bargaining unit" as that term is defined in the preceding paragraph of this Article I, Section 1, or as defined in any previous collective bargaining agreement entered into between the parties hereto, and

(b) was an employee on whose behalf five (5) years prior to the effective date of this Agreement contributions were required to be made for at least 5,000 of hour worked, or wages received, as the case then required.

SECTION 2 - NEW AND UNLISTED EQUIPMENT

It is mutually agreed between the Union and the Association to meet and discuss on wage rates and manning requirements for all new and unlisted equipment which is not listed in this Agreement

but that the Union claims under the jurisdiction of International Union of Operating Engineers. Upon written notification of the Association and the contractor by the Union, the parties shall meet to discuss all such matters within twenty-one (21) days from the date of notification. If the parties are unable to resolve such matters, the matter may be submitted within thirty (30) days to a neutral arbitrator. If the Union and the Association and/or Employer cannot agree on an arbitrator, then an arbitrator shall be selected in accordance with the rules and procedures of the American Arbitration Association and the arbitration shall be conducted under and in accordance with such rules and procedures. The cost of such arbitration shall be borne equally by both parties to the arbitration, and the decision of the arbitrator shall be final and binding on all parties and individuals bound by this Agreement. The time limits provided in this Section may be extended by mutual written consent.

SECTION 3 - RECOGNITION

The Associations and the Employers recognize the Union as the sole and exclusive bargaining agent for all employees employed in work covered by the occupational jurisdiction of the Union by Employers who are now members of the Associations and who have assigned their bargaining rights to the Associations, or such Employers as may hereafter become members of the Associations and who assign their bargaining rights to the Associations, or Employers signatory to this Agreement. The Union recognizes the Associations as the sole and exclusive bargaining agent for its members on whose behalf they have bargaining authority and for such other firms, persons or corporations as may hereafter become members of the Association and who assign their bargaining rights

to the Associations. The Associations shall keep the Union advised in writing within fourteen (14) days of changes to the list of members who have assigned the Associations their bargaining rights. All other contractor employers engaged in work covered by classifications in this Agreement and the occupational jurisdiction of the Union shall be subject to the terms of this Agreement.

SECTION 4 - SUBCONTRACTOR

The Employer agrees that he will not contract or subcontract any work covered by the Scope of Work of this Agreement and/or work coming under the occupational jurisdiction of the Union to be done at the site of construction, alteration, painting, or repair of a building, structure, or other work, except to a person, firm or corporation, party to the applicable current labor agreement with the Union.

SECTION 5 - ACCESS TO PREMISES

The duly authorized representative of the Union shall be allowed access to any job site or premises. If access is denied, the Union shall request an expedited grievance procedure by fax or other written communication within forty-eight (48) hours with a fine of Ten Thousand Dollars (\$10,000.00) per week. For this purpose it will be the duty of the Employer to provide adequate passes, as requested by the Union, provided the Employer is able to do so.

SECTION 6 - NO DISCRIMINATION

It is understood and agreed that the Employer shall not discriminate against any member of the Union, any of its officers,

its stewards, or any member serving as a member of a committee authorized by the Union. In the application of provisions of this Agreement, there shall be no discrimination by the Employer or the Union against any individual because of such individual's race, color, religion, sex, or national origin, and when the words in the masculine are used herein it shall include the feminine.

SECTION 7 - SCOPE OF WORK

This Agreement shall apply to work classifications and operations incidental thereto as are herein generally and specifically described:

¹* excavating of all types, paving of all types, bridges, culverts, roads, streets, airport runways, ramps grading, resurfacing, grade separations, overpasses, underpasses, curbs, gutters, sidewalks, parking areas, skyways, caissons, and all other highway construction work, underground and utility work of all types, sewers, subways, tunnels, water mains, piping, pipe jacking, headwalls, outfall structures, junction chambers, concrete construction, conduits, drainage, sheeting, dewatering, pile driving and all other underground utility work, heavy construction work of all types, dams, cofferdams, dock walls, shore protection and all land-based operations involving lakes, harbors, and river improvements; snow removal, flood controls, civil defense, fire and catastrophe operations of all types, landscaping, black dirt and black dirt fields, and wrecking of all types, dismantling or demolition of any building structure, railroad spurs from main line to building line, all farm and land improvements and all assembly and disassembly of all equipment on

¹ See letter of clarification regarding sewage disposal plants.

the job site coming under the jurisdiction of the operating engineers.

In the application of this section, the aforementioned classifications of work and operations shall not be interpreted to include the following:

Construction, erection, modification, addition to or improvement of a building structure or structures, the construction, erection, modification, addition to or improvement of an industrial plant or commercial construction and the driving of sheeting, piling, caisson work, foundation work or dewatering for a building structure, rapid transit stations, pumping station structures above connecting sewer lines, and slurry operations within the outer perimeter of the building line. When a member of the bargaining unit is working within the Scope of this Agreement and is required to work within the scope of another agreement the same day, the conditions and wages in the contract most beneficial to the employee shall prevail.

SECTION 8 - PRE-JOB/JOB CONFERENCE

If the Union or Employer elects, a pre-job/job conference shall be held prior to the commencement of work. At the pre-job/job conference, the Employer shall advise the Union of its requirements as to the workmen required in the respective classifications, the probable starting date, duration of the job, and the machines to be used.

Either party may after a job is in progress, if it deems necessary, request a job conference. The pre-job/job conference must be held within five (5) days from the date of request.

Union has the option to strike if an Employer refuses a written request to attend a pre-job/job conference provided that

at least forty-eight (48) hours advance written notice of the Union's intent to strike is given to the Employer.

SECTION 9 - PREVAILING WAGE SCALE

There is set forth in this Agreement in Article XV, a wage scale applicable to work performed in Cook, DuPage, Will, Kendall, Grundy, Kane, Kankakee, Lake and McHenry counties, all in Illinois, and in Article XV, the applicable wage scales for apprentices in all counties listed above. Such wage scales shall be applicable to contractor, individual, partnership or corporation signatory hereto and their employees engaged in all types of private works and in public works for the state, county, city, United States, or any other public body or any other political or departmental subdivision hereof.

SECTION 10 - SUCCESSOR/EMPLOYERS

A. SUCCESSOR/EMPLOYERS: This Agreement, when executed by the parties hereto, shall be binding upon the Union and Employer, their successor, heirs, executors, administrators, receivers in bankruptcy, receivers in equity, trustees or any such other equivalent designee.

B. NOTICE TO THE UNION: Employer shall give notice to the Union and the appropriate Fund Office in writing not later than ten (10) days after the occurrence of any of the events relating to the Employer, occurring after the date hereof:

1. Sale, assignment, transfer, or other change in name or ownership;
2. Formation of partnerships;
3. Termination of business;

4. Changes of name commonly used in business operation;
5. Change in form of business organization;
6. Incorporation of business;
7. Dissolution of corporation;
8. Name and business organization of successor;
9. Admission to or withdrawal from any association operating as a multi-employer bargaining agent.

SECTION 11 - ASSIGNMENT OF WORK

a) The Employer hereby agrees to assign ALL work that is to be performed in the categories described in Article I, Section 7, Article VIII, Article XI, and/or Article XV to employees in the bargaining unit covered by this Agreement.

b) The Employer, by entering into this Agreement hereby states and affirms that it is the Employer's preference to have ALL work identified or described in Article I, Section 7, Article VIII, Article XI, and/or Article XV be performed by employees in the bargaining unit represented by the Union covered by this Agreement.

c) Grievances alleging a violation of this Section, based upon assignment of work to employees and or labor organizations not affiliated with the Building and Construction Trades Department A.F.L.-C.I.O. shall be processed through the Grievance Procedure in Article XIII of this Agreement and shall not be considered to be a jurisdictional dispute and thereby excluded from the Grievance Procedure.

d) The Employer agrees to compensate the bargaining unit member who would have worked but for the Employer's violation of this Section at the double (2x) time rate for all hours the

bargaining unit member would have worked but for the Employer's violation.

ARTICLE II

A. UNION SHOP

All employees shall be obligated to become members of the Union after the seventh (7th) day of employment as a condition of continued employment. Any employee who fails to become a member of the Union by his own choice and not by refusal of the Union, or who fails to maintain his Union membership shall forfeit his right of employment.

The Union by written notice served by registered mail upon the Employer may demand the discharge of said employee, specifically stating the basis of said demand, and subject at all times to the Union guarantee to defend, save harmless and indemnify the Employer from any claims or damages accruing to the employee as a result of the wrongful discharge demand by the Union. The foregoing in all other aspects shall be subject to existing and applicable Federal and State laws governing labor management relations. This Union security provision shall be subject to immediate negotiation with the Employer as to any further changes permissible under future legal authority.

B. MANAGEMENT RIGHTS

The right to manage and conduct the business, including the right to determine what operations are to be conducted, the methods and means of all operations, to introduce new, improved or changed methods, equipment or facilities, to determine the machinery and equipment to be utilized, the right to hire, promote, manage and direct the work force, to schedule the days,

hours and shifts of operation, to determine when overtime shall be worked, to layoff and recall employees, to curtail or close down any operation, to sell and dispose of all or any part of the Employer's assets, and to contract or subcontract work, except as specifically limited by this Agreement, are reserved solely to the Employer.

ARTICLE III

SECTION 1 - WORK DAY AND WORK WEEK

(A) The regular starting time for a single shift operation Sunday through Saturday inclusive shall be scheduled at one of the following hours: 6:00 a.m., 6:30 a.m., 7:00 a.m., 7:30 a.m., or 8:00 a.m.

The Employer must establish a regular starting time, then if the Employer desires to change the established starting time, the employee(s) must be notified before the quitting time of the employee's regular workday of any change in the established starting time for the following day.

(B) Eight (8) hours shall constitute a normal workday between the hours of 6:00 a.m. and 2:30 p.m., 6:30 a.m. and 3:00 p.m., 7:00 a.m. and 3:30 p.m., 7:30 a.m. and 4:00 p.m., 8:00 a.m. and 4:30 p.m., as the case may be pursuant to the established starting time as set forth in Section 1(a) of this Article.

The provisions set forth in Section 1a and b of this Article shall not apply if there is a governmental agency requiring a different starting time, in which event such requirement shall be the controlling factor. In no event shall such governmental requirement be interpreted to apply the remainder of this Agreement.

(C) LUNCH PERIOD - There shall be a regularly scheduled lunch period for all one, two and three shift operations. The lunch period shall be one-half (1/2) hour beginning at the midpoint of the shift(s) or 12:00 noon for a single shift operation. The Employer must establish a regular schedule lunch period at either the midpoint or 12:00 noon and it shall be for a minimum of one (1) week duration beginning on a Monday and the employees must be notified before quitting time of the employees last day of work prior to the Monday of the change in the established lunch period. On a three shift operation, the employees on all three shifts will work seven and one-half (7-1/2) hours and be paid for eight (8) hours with a half (1/2) hour lunch period at the time specified above. On a two shift operation, the employees on both shifts will work seven and one-half (7-1/2) hours and be paid for eight (8) hours with a half (1/2) hour lunch period at the time specified above. On a two shift operation where the employees are working more than eight (8) hours, both shifts shall receive a half (1/2) hour lunch period, and it shall be taken at the midpoint of the shift, for which the employee shall be paid.

If the Employer requires the employee to work during his scheduled lunch period on a multiple shift operation, the employee shall be paid as provided above and in addition shall receive one-half (1/2) hour at the overtime rate for working during his lunch period.

On a single shift operation if the Employer requires the employee to work during his scheduled lunch period, he shall be paid time and one-half (1-1/2) for the lunch period in addition to his normal day's pay.

The above lunch period provision shall also apply to Sundays and holidays, except it shall be paid at the double time (2) rate.

(D) CALL OFF -

All employees shall be obligated to report for work each day Monday through Friday at the designated starting time as set forth in this Article; however, employees may be notified up until 10:00 p.m. of the previous day for a single shift operation or within six (6) hours after the end of the employee's shift on a multiple shift operation, by an authorized representative of the Employer if there is no work the following day. Otherwise the employee shall report for work and be paid pursuant to the terms of this Article. Employees personally notified on the job before quitting time the previous day or by telephone shall be the only valid means of notification of not reporting for work. The employee shall remain at the job site if so directed by the Employer or his representative. In the event the employee is held more than two (2) hours or is started to work at any time he shall receive a minimum of eight (8) hours pay and shall be paid pursuant to the following for all shifts Sunday through Saturday.

1. An employee who reports to work and is informed prior to the starting time of his regular shift, 6:00 a.m., 6:30 a.m., 7:00 a.m., 7:30 a.m. and 8:00 a.m., respectively, that he will not work that day shall receive two (2) hours pay.

2. An employee who reports for work and is informed prior to preparation time (1/2 hour prior to this established starting time) that he will not work that day and is released before two (2) hours have elapsed beginning with the starting time of his preparation time and has not started to work, shall receive two (2) hours pay.

3. An employee who reports to work and commences preparing his machine and is informed prior to his regular starting time that he may not work that day and is released before two and one-half (2-1/2) hours have elapsed beginning at the starting time of his preparation time and is not started to work shall receive one-half (1/2) hour at the overtime rate of pay for preparation time and two (2) hours pay for show-up time.

4. An employee who is requested to report for work prior to 6:00 a.m. on a single shift operation or 8:00 a.m., 4:00 p.m., or 12:00 midnight on a two or three shift operation and prior to the requested starting time is informed that he will not work that day shall receive pay at the overtime rate for the hours prior to the starting times listed in this paragraph and two (2) hours pay for show-up time.

5. An employee who is requested to report for work prior to 6:00 a.m. on a single shift operation or 8:00 a.m., 4:00 p.m., or 12:00 midnight on a two or three shift operation and held on the job more than two (2) hours after the regular starting time or has started to work at any time after the requested starting time shall receive pay at the overtime rate for the hours prior to the starting times listed within this paragraph and for eight (8) hour's pay for the normal work day.

6. An employee held on the job more than two (2) hours or is started to work at any time after the employee's regular starting time shall receive a minimum of eight (8) hours pay plus one-half (1/2) hour preparation time when applicable. An employee who is requested to report or who is called out after 8:00 a.m., 4:00 p.m., or 12:00 midnight, respectively, shall be paid back to 8:00 a.m., 4:00 p.m. or 12:00 midnight, respectively, plus one-

half (1/2) hour preparation time when applicable, and such hours shall be counted as hours worked in computing overtime.

The above provisions shall be applicable to all single and multiple shifts under the terms of this Agreement. When an employee is requested to report for work on Saturdays, Sundays, or holidays, he shall be paid pursuant to the provisions set forth in this Article, except he shall be paid at the applicable overtime rate of pay.

SECTION 2 - HOLIDAYS

The following holidays are designated as those for which double (2) time shall be paid together with Sundays: NEW YEAR'S DAY, DECORATION DAY, FOURTH OF JULY, LABOR DAY, THANKSGIVING DAY AND CHRISTMAS DAY. A holiday falling on Sunday shall be celebrated on Monday. If a holiday falls on a day other than a Sunday, it shall be celebrated on that date. No work shall be done on Labor Day, except to save life or property.

SECTION 3 - OVERTIME

All time in excess of eight (8) hours per day and/or forty (40) hours per week and before or after the normal workday and Saturdays shall be paid at the time and one-half (1-1/2) rate of pay.

All holidays shall be considered as time worked irrespective of whether the employee performs work or not in determining overtime payment.

All overtime shall be paid to the next half (1/2) hour.

All hours for which the employee receives wages shall be counted as hours worked in computing overtime.

SECTION 4A - PAYDAY FOR EMPLOYEES DURING THE SHOW-UP TIME PERIOD

Any employee who reports for work on a pay day and is told that there is not work that day shall receive his normal show-up time as long as his paycheck is available to him at his normal place of work during his second hour of his starting time. If an employee is required to wait more than two (2) hours for his paycheck, he shall receive an additional hour's pay for each hour or part of an hour the employee is required to wait for a check.

SECTION 4B - PAYDAY FOR EMPLOYEES WHO ARE NOT REQUIRED TO WORK DURING CALL OFF

When the Employer notifies the employee(s) that there will be no work and such day is the regular pay day, the employee(s) check shall be made available to him at his regular place of work no later than the end of the second hour from his regular starting time. The employee(s) shall be compensated two (2) hours at the regular rate of pay for picking up his check plus for each hour or part of an hour beyond the two (2) hour period, he shall receive an additional one (1) hour's pay.

ARTICLE IV

SHIFT WORK

When shift work is established and work is carried on with three shifts of men working eight (8) hours each, the starting time shall be 8:00 a.m. for the day shift, 4:00 p.m. for the afternoon shift, and 12:00 midnight for the night shift, then only single time shall be paid during weekdays, except as provided in this Article. Rotation of multiple shifts may be established at a job conference.

Employees working on the afternoon shift shall receive an additional Fifty Cents (\$0.50) effective June 1, 2001, Sixty-Five Cents (\$0.65) effective June 1, 2003, and Seventy-Five cents (\$0.75) effective June 1, 2006 per hour over the regular rate of pay. Employees working on the night shift shall receive an additional Seventy-Five Cents (\$0.75) effective June 1, 2001, Ninety Cents (\$0.90) effective June 1, 2003, and One Dollar and no Cents (\$1.00) effective June 1, 2006 per hour over the regular rate of pay.

Where two or three shifts are utilized and the Employer wishes the starting time advanced, a representative of the Union and a representative of the Employer shall meet and agree to the starting time for both shifts.

Where shift work is performed from 12:01 a.m. Saturday to 12:00 midnight Saturday, each shift shall be paid at the rate of time and one-half (1-1/2).

Where shift work is performed from 12:01 a.m. Sunday to 12:00 midnight Sunday, each shift shall be paid at the rate of double (2) time.

All provisions in Article III pertaining to work week, show-up time and workday, preparation time, overtime, holidays, and pay day shall apply to all one, two, and three shift operations.

An employee who has started to work and goes into overtime or works into another shift shall receive overtime until such individual has been released from work (see regular assigned engineer clause).

ARTICLE V

SECTION 1 - SEVERANCE PAY

When the services of an employee are no longer required, he shall receive a full day's pay for the day he is terminated and receive all of his wages before his quitting time or by certified mail postmarked within twenty-four (24) hours after his quitting time. If not paid within said twenty-four (24) hours, the Employer shall pay penalty of four (4) hours of pay to such employee at the straight time rate of pay for each succeeding twenty-four (24) hours of delay. It is understood that said twenty-four (24) hour periods shall not include Sundays or holidays. Employees shall not be called at home and terminated.

SECTION 2 - WAGE PAYMENT

Wages shall be payable in United States currency or checks at the option of the Employer, or by Direct Deposit at the option of the employee, and in no event shall the Employer withhold for more than five (5) days, wages accruing prior to the pay day. At the time of payment of wages, the Employer shall furnish the following information on the check stub or accompanying slip to each employee: regular hours worked and overtime hours worked and all deductions including contributions to the Vacation Fund shall be listed separately.

Payday shall be once each week on a specified day during work hours except when payday falls on a Thursday or Friday and such day or the day after is a holiday the employees must be paid prior to the holiday in question. If an employee is not paid on the regular assigned pay day the Employer shall pay penalty of four (4) hours a day to such employee at the straight time rate of pay for each succeeding twenty-four (24) hours of delay. It is

understood that said twenty-four (24) hour periods shall not include Sundays and holidays.

SECTION 3 - TRANSPORTATION AND PARKING

Whenever employees of the bargaining unit are employed on a job site or project where they cannot supply their own transportation to the work area to which they are assigned, the Employer shall furnish transportation from the gate or entrance or an adequate parking lot provided for by the Employer to their place of employment. All shifts shall start and end at a specified gate, entrance or parking lot for all employees for whom such transportation is furnished.

SECTION 4 - DUTIES OF THE EMPLOYER

It shall be the duty of the Employer to:

1. Furnish to the employees a sufficient amount of fresh drinking water at the beginning of each shift at the job site and again during the lunch period. Provide an adequate changehouse (for operating engineers) and sanitary toilets at the job site.
2. Provide adequate heated showers for (operating engineers) at the job site on all tunnel jobs.
3. Provide an adequate amount of water to keep the dust down.
4. Maintain proper ventilation in all working areas pursuant to Section 5 of this Article.
5. Provide suitable shelter to protect employees from falling materials and inclement weather; such as hard hats, raingear, summer and/or winter fans, heat housers.
6. Carry Workmen's Compensation insurance in a Company or Association authorized under applicable state laws and regulations

to insure the liability to pay compensation under Workmen's Compensation Laws.

7. Make all contributions required under the Illinois Unemployment Compensation Act. When an Employer shall not be subject to the provisions of such Act because of the number of employees in the employing unit, he shall, nevertheless, pursuant to the provisions of said Act, make election to be subject thereto.

8. Pay for specialized training as required by individual owners or government agencies to include all tuition, fees, book and other expenses as well as the wages for time spent in direct training (i.e. HAZMAT or specialized safety training), CDL and recertifications are not included.

Upon forty-eight (48) hours written notice, the Union shall have the option to strike any Employer who does not comply with numbers 6 and 7 above.

SECTION 5 - INSURANCE, SAFETY, SANITATION

The Employer must make adequate provision to comply with all the rules and laws pertaining to Insurance, Safety and Sanitation as are established by the statutes of the Federal, State and Municipal governments where the work is in progress.

ARTICLE VI

SECTION 1 - MAINTENANCE AND HEAVY DUTY REPAIR

When the Employer is performing work covered by this Agreement and such Employer maintains a maintenance and repair shop, or shops, or does repair and equipment maintenance in the field, all employment and applications for employment to perform such work shall be in accordance with the terms and provisions of

this Agreement. The Employer shall have the right to have specialized field and shop repair performed by service representatives of manufacturers or equipment dealers who provide such service.

1. Employees shall keep their equipment in good order and good repair at all times, and shall assist in field repair of same. In the event of a breakdown of equipment, the engineer and oiler, if one is assigned to the equipment, can be re-assigned while it is being repaired only when members of the bargaining unit are assigned to perform the repair work.

2. If any repair work is to be performed by anyone other than a member of the bargaining unit, the operator and/or oiler shall assist said non-bargaining unit member with the repair, and shall remain with his assigned machine until all repair work is completed.

3. Unassigned machines shall come under the terms and conditions of number 2 above.

4. All lubing or any other servicing of equipment in the field will only be performed by members of the bargaining unit, including all Grease Trucks or other means of servicing equipment. When it has been traditionally and historically assigned by the Employer, lubing and any other servicing of equipment in the shop may be performed by a non-bargaining unit member.

On days when operators and oilers are called off or when repair work goes into overtime on a weekday, Saturday, Sunday or holiday, only a bargaining unit mechanic may perform the repairs with no assistance. If another person is needed to assist, it shall be a member of the bargaining unit.

When warranty work is performed on new equipment, the operator and/or oiler may be reassigned.

The length of time warranty work can be performed by factory service representatives shall be limited to the original factory warranty period.

SECTION 2 - LOADING AND UNLOADING

The loading and unloading of all power driven self-propelled equipment listed in the wage classifications of this Agreement when being moved by means of low-boy trailers rail or water on the job site, from job site to job site, yard or shop to job site, etc. shall be deemed the work of the operating engineers and shall be covered by the terms of this Agreement. The Employer may at his discretion assign the employee(s) to act as an escort while such equipment is in transit.

The loading and unloading of unassigned equipment discussed in this section may be done by an employee(s) assigned to another piece of equipment and shall not be considered a violation of Article IX, Section 4. Provided, however, such operation does not violate Article IX, Section 6, the Idle Time provision.

SECTION 3 - MOVING

The moving of all power driven self-propelled equipment listed in the wage classifications of this Agreement when moved under its own power on the job site, from job site to job site, from yard or shop to job site, etc. shall be deemed the work of the operating engineer and shall be covered by the terms of this Agreement. Employees shall receive wages for such travel time until they are returned to the place of origin or their personal transportation, whichever is closer.

If the Employer designates a reporting point other than the job site, employees shall be paid at their applicable rate for

time spent going from the reporting point to the job site and if necessary, for returning to the designated reporting point.

SECTION 4 - MECHANICS

Mechanics shall furnish their own tools but shall not be required to furnish special tools such as: Pin Presses, Spanner Wrenches, Air or Electric Wrenches, Gear and Bearing Pullers, Electric Drills, Reamers, Taps and Dies, Oxyacetylene Hoses, Gauges, Torches and Tips, Twenty-Four Inch (24") Pipe Wrenches, over 3/4 Inch Drive Socket Set, Sockets over Two Inches (2"). If by mutual agreement, the mechanic is to use his personal pick-up or similar vehicle for the transporting of his tools, etc., on the job, or from job to job, he shall be compensated at not less than Six Hundred Twenty-Five Dollars (\$625.00) per month plus all fuels, oil, and any additional insurance rider for said vehicle. In no event shall the furnishing of said vehicle be deemed as a condition of employment. Payment for vehicle rental shall be monthly except in case of a lay-off then it shall be as set forth in Article V, Section 1.

The Employer agrees to pay for or replace with equal quality any tools, (excluding hand tools guaranteed for life by the manufacturer), broken on the job by mechanics or anyone required to furnish their own tools. The Employer shall maintain an insurance policy or assume the cost risk, for loss of the employee's personal tools, or portion thereof, on Company premises, or job site and while in the Company's utility truck, when due to the theft by break-in and entry, including fire and explosions or other circumstances that may happen on the Company premises, or job site, and/or Company's utility truck. The Employer's liability for such loss shall not exceed the actual

cost of the tools. It is understood that all employees must furnish the Employer with a complete inventory of the personal tools and their brand. It is further understood that whenever new tools are purchased, the employee must include them on the inventory list previously furnished, and whenever tools are removed, the inventory shall be reduced. If an employee does not supply the Employer with an inventory of tools, responsibility for replacement will not be that of the Employer. All replacement costs shall be paid within thirty (30) days of a reported loss. Employees must notify the Employer of a loss covered by this provision within three (3) days of knowledge of loss.

ARTICLE VII

CRAFT FOREMAN

A Craft Foreman shall be employed by the Employer where fifteen (15) or more employees in the bargaining unit are employed. Craft Foreman are employed for their knowledge in the repair and maintenance of various machines used in the construction industry, and shall also work with the tools of the trade relating to the repair and maintenance of all machines coming within the jurisdiction of the bargaining unit. They shall also have a working knowledge of the qualification of the employees working for their Employer. The Craft Foreman will be the lead man of the employees in the bargaining unit. Such individual, however, shall neither have the authority to, nor shall he exercise any of the functions customarily exercised by supervisor within the meaning of the National Labor Relations Act, as amended. In no way shall such individual be deemed to be an agent of the Union.

The Craft Foreman shall be responsible for the general supervision of all members of the bargaining unit. He shall regularly supervise the maintenance performed on all equipment to insure that proper servicing is accomplished daily. He shall maintain records (supplied by the Employer) indicating that regular preventative maintenance has been accomplished.

The Craft Foreman will be responsible for maintaining a supply of oil and grease, cables and other spare parts and equipment essential for regular operation when such material is made available to him by the Employer or when given the necessary purchasing power to do so by the Employer. The Craft Foreman will be designated by mutual agreement between the Union and the Employer, except when an employee has been in the continuous service of the Employer (including affiliated companies, joint ventures and predecessors or successors of the Employer) for a minimum of ten (10) years.

ARTICLE VIII

SECTION 1 - (A) PREPARING EQUIPMENT

Engineers on all cranes up to one cubic yard capacity and engineers operating all derricks and^{2*} all hoists listed in Class I of Article XV hereof, and engineers on cranes of 20 ton lifting capacity or under, shall start one-half (1/2) hour before the regular starting time including shift work to prepare the machine for its operation by oiling, greasing, maintaining and servicing the equipment and shall be paid for said one-half (1/2) hour at the overtime rate.

^{2*} Single drum hoist of motive power less than six horsepower will not require preparation time.

Combination Backhoe Front Endloader machine with backhoe bucket capacity of less than one (1) cubic yard shall not be subject to preparation time. Combination Backhoe Front Endloader machine with backhoe bucket capacity of one (1) cubic yard or more shall be subject to preparation time. All Hydraulic Cherry Picker type machines under twelve (12) ton lifting capacity shall not be subject to preparation time. All Hydraulic Cherry Picker type machines of twelve (12) ton lifting capacity to a gross vehicle weight up to ninety-one thousand (91,000) pounds shall be subject to preparation time. All Hydraulic Cherry Picker type machines of over ninety-one thousand (91,000) pounds gross vehicle weight shall require an engineer and oiler and/or apprentice as the case may be. All Tieback machines less than 60,000 pounds capacity shall be subject to preparation time.

In the event a dispute arises over the applicability of preparation time, or oiler (Apprentice) requirements, due to the introduction of new models of machines or due to the manufacturer's or employer's de-rating or re-classification of any machine's size, lifting capacity, bucket capacity, or weight, a committee comprised of an equal number of representatives of the Union and the Association signatory hereto shall meet to make an equitable decision of the machine in question. In the event a majority decision cannot be reached, the dispute shall be processed pursuant to the Grievance and Arbitration article of this Agreement.

(B) Engineers on concrete conveyor systems will be present and assist when the conveyor system is being set up or dismantled, operated or moved. The engineer will also maintain the generator running the system. An additional engineer shall be required for each additional generator used and also an additional engineer

shall be used if the conveyor system is set up in sections on different levels and is not one continuous set of conveyors.

SECTION 2 - MACHINERY OPERATION

All Power Shovels, Backhoes, Draglines, Clamshells and Cranes used in work covered by this Agreement where such machinery is rated by the manufacturer as having a capacity of one cubic (1) yard or over, or over twenty (20) ton lifting capacity, Autograde, *³ Formless Curb and Gutter Machine 36 inches in width and over, Roto Mill Grinder 36 inches in width and over, Slip-Form Paver, Concrete Paver 27E and over, Central Mix Plants, Asphalt Plants, Batch Plants and Trenching machine 30 inches and over, shall require an engineer and oiler (Apprentice), regardless of motive power.

All Lattice Boom Cranes originally manufactured after 1990 shall require an Engineer and an Oiler or Apprentice.

All Lattice Boom Cranes originally manufactured prior to 1990 with an original lifting capacity of under 20 tons, shall require an Engineer, but shall not require an Oiler or Apprentice.

All Lattice Boom Cranes 20 tons and under manufactured prior to 1990, the Engineer shall receive one-half ($\frac{1}{2}$) hour grease time.

If another person is required on any of the above cranes, it shall be a member of the bargaining unit.

Hydraulic machine other than Front Endloaders that are designed to use bucket attachments of various sizes and the manufacturer rates such machine as weighing over one hundred fifteen thousand (115,000) pounds shall require an oiler. Machines that do not require an oiler pursuant to the above shall be subject to preparation time pursuant to Section 1 (A) of this

³* See letter of intent dated May 6, 1976.

Article, with the exception of Combination Backhoe Front Endloader machine.

In the event machines of a new make, model, design, weight or capacity become available and a dispute arises in regard to the application of the foregoing, a committee comprised of an equal number of representatives of the Union and the Association signatory herein shall meet and based on available information and the manufacturers specifications issue a majority decision.

In the event a majority decision cannot be reached, the dispute shall be processed pursuant to the Grievance and Arbitration Article of this Agreement.

Non-Lattice Boom Truck Cranes having three (3) axles or less shall not require an oiler. All Non-Lattice Boom Truck Cranes having four (4) axles or more, including dolly (dolly shall count as an axle) shall require an engineer and oiler except as heretofore limited.

On any machine not requiring an oiler when a second man is used, such man shall be an employee of the bargaining unit.

SECTION 3 - MACHINE REFERENCE GUIDE

"Lifting capacity, capacity in cubic yards, manufacturers rating in pounds" and similar references to size, weight bucket capacity or performance of a machine or piece of equipment shall be determined by reference to Dataquest Green Guide. Such reference guide and the information contained therein with regard to the standard configuration of a specific piece of equipment or machinery shall be utilized, notwithstanding any modifications or alteration to the machine or piece of equipment.

SECTION 4 - LONG BOOM PAY

All engineers operating cranes and derricks of all types with booms of ninety feet (90') to one hundred fifty (150') feet, including jib, shall be compensated an additional Fifty Cents (\$.50) per hour over and above the regular wage scale for operating such crane. All engineers operating cranes and derricks with booms of more than 150 feet including jib, shall be compensated the aforementioned Fifty Cents (\$.50) plus an additional ten cents (\$.10) per hour over and above the regular wage scale for operating such crane for each additional ten feet (10') of boom or jib.

SECTION 5 - CAPACITY PAY

All engineers operating cranes and derricks with a manufacturers rated maximum capacity exceeding 50 ton shall be compensated Two Cents (\$.02) per hour for each ton of the rated capacity in excess of 50 ton. Long Boom Pay Section 4 and Capacity Pay Section 5 and Premium Pay as provided for in Section 6 of this Article shall be not be pyramided, but the highest rate shall prevail.

SECTION 6 - AUGERS AND DRILL RIGS

All engineers operating crane mounted earth augers, raised and blind holes drills, and truck mounted drill rigs shall be compensated an additional Fifty Cents (\$.50) per hour over and above the regular wage scale for operating such equipment.

SECTION 7 - CRETER CRANES

Concrete conveyors mounted on rough terrain cranes (creter cranes) 18 ton and over shall require an engineer and oiler, less than 18 ton the engineer shall receive preparation time. When the creter crane is equipped with a conveyor system capable of extending seventy (70) feet or more, the engineer shall receive an additional Fifty Cents (\$.50) per hour wage increase over and above the regular rate of pay for operating the creter crane.

SECTION 8 - TRUCK MOUNTED CONCRETE PUMPS AND CONVEYORS

Truck mounted concrete pump or conveyor operations shall require an operator. When such machines are equipped with a boom or conveyor, which is capable of extending ninety feet (90') or more, the engineer shall receive an additional Fifty Cents (\$.50) per hour wage increase over and above the regular rate of pay for operating the concrete pump or conveyor.

SECTION 9 - HELICOPTERS

The use of helicopters (external loads) under the terms of this Agreement shall require a three (3) man crew, one (1) pilot and two (2) controllers. The pilot and controllers must have direct radio communications during the actual hoisting operation.

The crew shall receive the hourly wage rate set forth in this Agreement for crane operators, and in addition, the pilot shall receive long boom pay up to a maximum length of 500 feet.

SECTION 10 - UNDERGROUND WORK

(A) Employees working in tunnels, shafts, etc., shall be paid an additional Forty Cents (\$.40) per hour over the regular negotiated wage rate. In addition to this, employees working under

air pressure (1/2 lb. to 7 lbs.) shall receive Fifty Cents (\$.50) per hour over the regular negotiated wage rate. Employees working under air pressure (7 lbs. or over) shall receive Sixty-Five Cents (\$.65) per hour over the regular negotiated wage rate. Underground and air pressure pay differential shall apply for the full shift and all overtime to any employee performing work underground or under air pressure.

(B) All shifts shall start and end above ground, or employees engaged in work described in this Section shall be paid an additional one-half (1/2) hour pay as travel pay at the overtime rate from 0 to 10,500 ft., one (1) hour travel pay for over 10,500 ft. 21,000 ft., one and one-half (1-1/2) hours travel pay for over 21,000 ft. to 31,500 ft. Travel distance shall be measured from point of entry of the employee. Employees must report before their normal starting time as required by the travel time listed herein. At the end of the shift, employees must be out of the shaft at the normal quitting time or be paid overtime pursuant to the terms of this Agreement unless reason for not being out of the shaft is an act or fault of the employee.

SECTION 11 - MINING MACHINES - BORING MACHINES - MICRO TUNNELING

A. The crew operating and maintaining the mining machines shall be compensated an additional Fifty Cents (\$.50) per hour over and above the regular wage scale for operating and maintaining such machine. For hard rock tunnels 12 feet in diameter and over, the crew shall consist of one operator, one oiler, and one heading mechanic, who shall perform maintenance on any equipment in the tunnel heading. Under 12 feet in diameter, one operator and one oiler. Tunnels other than hard rock under

five feet in diameter one operator, five feet in diameter and over one operator, one oiler.

B. All Micro Tunneling operations shall require a minimum of three (3) Operators, two (2) Class I Operating Engineers and one (1) Class III Operating Engineer, for tunneling machines and pipe jacking.

SECTION 12 - BOBCATS, SKIDSTEER LOADERS, FORKLIFTS SERVING BRICK MASONS AND DRILLS

12.1 The operation of Bobcats and Skidsteer Loaders shall be assigned to Operating Engineers except as otherwise provided herein. Bobcats and Skidsteer Loaders, including those machines equipped with small jackhammers (pencil breakers) may be assigned to Laborers for the following work:

- (a) building demolition work (inside the structure).
- (b) minor excavation such as curb tear out, replacement and back filling.
- (c) raising, lowering or movement of manholes.
- (d) residential concrete work using one bobcat/skidsteer loader. If more than one such machine is used, additional machines shall be assigned to Operating Engineers.

12.2 Forklifts and bobcats with pallet fork attachments serving eight (8) or more brick masons on commercial projects shall be operated by Operating Engineers. Forklifts and bobcats with pallet attachments serving seven (7) or fewer brick masons on commercial projects may be assigned to Laborers.

12.3 Drilling operations using air track type machines shall be the jurisdiction of the Laborers. Drills where compressor units do not supply the power in the operation of the

drill shall be the jurisdiction of the Operating Engineers. All drills in tunnels are the jurisdiction of the Laborers.

12.4 The provisions of this Section shall become effective June 1, 1995. Employers who have traditionally assigned any of the above described bobcat and skid steer loader operations to Laborers shall not be required to reassign such work to Operating Engineers but shall assign such work to Operating Engineers as the Laborer employees of the Employer currently assigned to such work leave the employ of the Employer through termination or retirement. Upon request, the Employer shall provide a list of the Laborer employees who are covered by this grandfather provision and shall notify the Operating Engineers when such Laborer employees terminate their employment or retire.

12.5 Grievances alleging violations of this Section 12 shall be processed through the Grievance Procedure in Article XIII of this Agreement and shall not be considered to be jurisdictional disputes and thereby excluded from the Grievance Procedure.

SECTION 13 - TIEBACK MACHINES

Tieback machines rated by the manufacturer to have working weight of Sixty Thousand (60,000) pounds or more and/or custom built Tieback machines with a working weight of Sixty Thousand (60,000) pounds or more shall require an oiler regardless of motive power.

Tieback machines rated by the manufacturer to have a working weight of less than Sixty Thousand (60,000) pounds and/or custom built Tieback machines with a working weight of less than Sixty Thousand (60,000) pounds shall be subject to the preparation time

clause Article VIII, Section 1, of the Agreement regardless of motive power.

SECTION 14 - ASPHALT PLANTS

An Operator and apprentice/oiler shall be present at all times when Plant is in operation. When Plant is not in operation and silo has been loaded the previous day, the operator shall be present to discharge the material from silo.

ARTICLE IX

SECTION 1 - DISCHARGE

The Employer shall have the right to discharge any employee for just cause. The Employer shall notify the Union within twenty-four (24) hours of the discharge of such employee.

SECTION 2 - NOTICE ON LEAVING JOB

No employee shall leave his job without giving due notice to the Employer and the Union.

SECTION 3 - REGULAR ASSIGNED ENGINEERS

The engineers, or crew regularly assigned to a piece of equipment on a single or a multiple shift operation shall be given preference when this piece of equipment is required to work, be repaired or moved (in accordance with Article VI) on a regular workday, Saturday, Sunday and holiday or other overtime.

SECTION 4 - CHANGING FROM ONE MACHINE TO ANOTHER

(a) The following shall be the maximum changes an employee shall make during a shift: Machine A to Machine B, back to Machine A plus one other machine. If the rate applicable to one machine

is higher than that of another, the higher rate shall apply to and be paid for the full shift. The aforementioned change shall apply to all one, two and three shift operations, respectfully.

(b) In interpreting and applying this Article, it is understood and agreed that the language therein is not in any way to be interpreted as a limitation on the amount of work any employee is required to do, but only as a limitation on the number of machines such employee can be required to operate or service.

(c) Any employee covered by this Agreement shall not be permitted to change to a machine that another employee covered by this Agreement has been employed to operate unless the latter has been discharged for just cause, and the Union has been notified of such discharge. However, if through no act or fault of the Employer, the Regular Assigned Employee is not available for work, this clause shall be inoperative.

This provision shall not apply to minor machines in the following instances, notwithstanding Article VI, "Regular Engineer":

(1) Small compressors, earth rollers and form graders when used on paving work.

(2) Small graders, small rollers and small spreaders when used in connection with a blacktop operation.

(3) Small combination hoes, trenching machines and post augers used in connection with the installation of traffic signals.

SECTION 5 - BOBCATS - Bobcats or machines of a like nature that are designed to use bucket attachments of various sizes, such machines shall be in Class V wage category.

SECTION 6 - IDLE TIME - CLASS I, CLASS II, CLASS III EQUIPMENT

In case of a layoff, a machine must be idle two (2) work days before another employee can be assigned to such machine. If such machine is reactivated before the two (2) day period, the original employee shall be given first opportunity of employment on said machine. However, if such employee is not available, this paragraph shall be inoperative.

CLASS IV EQUIPMENT AND OILERS - In case of a layoff, a machine must be left idle one (1) working day before another employee can be assigned to such machine. If such machine is reactivated before the one (1) day period, the original employee shall be given first opportunity of employment on said machine. However, if such equipment is not available, this paragraph shall be inoperative.

ARTICLE X

DUTIES OF THE OILER

It shall be the duty of the oiler to keep the machine to which he is assigned thoroughly lubricated and reasonably clean, as instructed by the Engineer and to maintain the machine and assist in such work as directly affects the operation of the machine. The oiler shall be under the technical direction of the Engineer, perform such duties as he prescribes and remain at all times in close proximity to the machine.

The same rules and regulations regarding overtime and working conditions which apply to Engineers shall also apply to oilers, except the oiler shall take his lunch period before or after the engineer and grease the machine during the engineer's lunch time.

ARTICLE XI

SECTION 1 - SMALL EQUIPMENT

An operating engineer servicing and maintaining the following listed Class IV machinery: Small Air Compressors, Small Generators, Small Electric Winches, Welding Machines and Sump Pumps three inch or under - shall not be required to maintain more than a total of five (5) such machines of the same type, except Small Electric Winches for which the total number maintained shall not be more than four (4), nor shall such employee be required to service and maintain more than a total of five (5) of the above listed machines in combination. When employees of the bargaining unit are employed to service and maintain mechanical heaters, such employees shall not be required to service and maintain more than a total of five (5) such heaters. Where a member of the bargaining unit is required to service and maintain more than a total of five (5) heaters, such employee shall be compensated at the Class I rate of pay negotiated for Crane Operators in this Agreement. Assignment of such machines shall not exceed a total of eight (8). An Engineer shall not be required on one (1) small heater of less than 250,000 B.T.U.

SECTION 2 - SMALL CATEGORY EQUIPMENT ASSIGNMENT

(a) In the event that the Employer uses not to exceed a total of three (3) of the following listed small Class III equipment in any combination on a job site where members of the bargaining unit are employed by the Employer:

1. Small pumps 3" or under doing intermittent pumping
2. One welding machine
3. Single light plant (50kw and under)
4. Three air cooled welding machines

5. One similar piece of equipment

A member of the bargaining unit shall be assigned and compensated at the rate of Fifty Cents (\$.50) per hour for the entire shift over and above the negotiated rate.

(b) In the event an Employer uses any one of the following (B) 1, (B) 2, (B) 3 on a job site where members of the bargaining unit are employed by the Employer:

1. One (1) air compressor of 250 c.f.m. or under
2. One (1) to eight (8) electric submersible pumps not to exceed three (3) inches each
3. One (1) or two (2) four (4) inch electric submersible pump

A member of the bargaining unit shall be assigned and compensated at the rate of Fifty Cents (\$.50) per hour for the entire shift over and above the negotiated rate.

(c) In the event that there are no members of the bargaining unit employed by the Employer on the job site, the Employer shall have the right to operate equipment as listed in any one (only) of the above listed (A) 1, (A) 2, (A) 3, (A) 4, (A) 5, or (B) 1, (B) 2, or (B) 3 until such time as members of the bargaining unit are employed by the Employer on the job site, but in no event is work coming within the jurisdiction of the bargaining unit to be permanently assigned to any other employee.

(d) In the event an Employer uses a compressor (1) under 250 c.f.m. on a job site where member(s) of the bargaining unit are employed, a member of the bargaining unit shall be assigned and compensated at the rate of Fifty Cents (\$.50) per hour for the entire shift over and above the members negotiated rate.

(e) In the event an Employer uses a compressor (1) over 250 c.f.m. on a job site where there are no members of the bargaining

unit employed sub-section (d) above shall become inoperative and the Employer shall employ a member of the bargaining unit at the Class IV rate of pay listed in this Agreement.

SECTION 3 - ELECTRIC SUBMERSIBLE PUMPS - JOB SITES OR PROJECTS

(a) On a job site where more than eight (8) three inch (3") in diameter or less electric submersible pump are being used, the Employer shall require a full time pump operator at the pump wage rate, to provide for the operation and maintenance of said pumps, during the entire regular daytime shift - Monday through Friday and on such other days as the regular daytime crew are conducting full scale job operations. No other operator shall receive premium pay. In the event of a breakdown in any pumps, the assigned operator shall be subject to call at any time and any day to assist in the installation, servicing or removal and re-location of said pumps. In such breakdown case, the Employer shall notify the Operator by telephone to report to the job site if available for said duty. An employee shall not be required to operate and maintain more than a total of 75" discharge.

When a discharge exceeds 75" or when the Combination of A & C does not apply the Employer shall require a second full time pump operator - Monday through Friday on the same basis as stated above. However, the Employer may assign the second pump operator to the second shift. It is further understood when the two (2) aforementioned pump operators are employed the total inches of discharge may be increased to 175".

When a discharge exceeds 175" the Employer shall require a third full time pump operator - Monday through Friday on the same basis as stated above. However, the Employer may assign the third pump operator to the third shift.

The conditions set forth herein for the first pump operator is also applied to the second and third pump operators respectively.

(b) In the event that the Employer uses electric submersible pumps three inches (3") in diameter or less not to exceed a total of eight (8) such pumps and a member of the bargaining unit is being utilized on the job site, the member shall be assigned to the pumps and shall be compensated at the rate of Fifty Cents (\$.50) per hour for the entire shift over and above the members negotiated rate of pay. An employee shall not be required to operate or maintain more than a total of 15" discharge.

(c) In the event the Employer uses one (1) or two (2) four inch (4") electric submersible pumps and a member of the bargaining unit is being utilized on the site, the member shall be assigned to the pumps and shall be compensated at the rate of Fifty Cents (\$.50) per hour for the entire shift over and above the members negotiated rate of pay. An employee shall not be required to operate and maintain more than a total 8" discharge.

(d) In the event the Employer uses more than one (1) or two (2) four inch (4") electric submersible pump or any electric submersible pump larger than four inches (4") in diameter a full time pump operator shall be required Monday through Friday on each shift when pumps are in operation and on such other days as the regular crew is conducting full scale job operations to provide for operation and maintenance of such pump or pumps. An employee shall not be required to operate and maintain more than 150" discharge.

COMBINATION A & C

An employee may be assigned to operate and maintain a combination of A & C pumps above. Such employee shall be

compensated at the rate of fifty cents (\$.50) per hour for the entire shift over and above the negotiated pump rate of pay.

COMBINATION D & B

An employee may be assigned to operate and maintain a combination of D & B pumps above. Such employee shall be compensated at the rate of fifty cents (\$.50) per hour for the entire shift over and above the negotiated pump rate of pay.

SECTION 4 - ELECTRIC SUBMERSIBLE PUMPS - TUNNELS, ETC.

The Employer shall require a full time pump operator when B or C of Section 3 above is exceeded and the job or project is minus 100' in depth as per the specifications, bench mark, etc., to operate and maintain electric submersible pumps used on tunnels, shafts, and other underground enclosed work, during the entire daytime shift - Monday through Friday and on such other days as the regular daytime crew are conducting full scale job operations. No other operator shall receive premium pay or be required on the other two shifts in the 24 hour day except when the total pump discharge on the project exceeds 30". In this case, a second pump man shall be assigned to the second shift - Monday through Friday and on such other days as the regular second shift crew are conducting full scale job operations.

In the event the total pump discharge on the project exceeds 60" a third pump man shall be assigned to the third shift - Monday through Friday and on such other days as the regular third shift crew are conducting full scale job operations.

When pumps require IN LINE service and maintenance such work will be performed by the normal shift pump operator. When pumps

require repair or rebuilding, beyond normal warranty work, such work shall be the work of the mechanics.*⁴

ARTICLE XII

HIRING

When an Employer performs work covered by this Agreement in the areas covered by Local Union No. 150, the following shall apply:

The Employer will obtain all employees used in the performance of such work through the Referral Offices of the Local Union in accordance with the non discriminatory provisions governing the operation of the Local Union's Referral Offices set out in the current effective Addendum No. 1 to this Agreement as if set forth in full herein. Furthermore, subsequent to referral and hire the Employer shall make and maintain all work assignments of preferred employees in full compliance with the provisions of said Addendum No. 1. Employer maintains the right to assignment of preferred employees to other assignments.

ARTICLE XIII

SECTION 1 - GRIEVANCES AND ARBITRATION

For the purpose of this Agreement, the term "grievance" is any claim or dispute involving an interpretation or application of the Agreement by an employee, or an Employer, or the Union, or the Association that one of the other of the aforesaid persons or organization is violating or has violated this Agreement.

⁴* See illustration and definition attached to the back of contract.

STEP 1. A grievance shall first be taken up between the Union's Business Representative assigned to the job and a designated representative of the Employer. The Union must file the grievance within forty-five (45) days of the date of occurrence giving rise to the grievance or when the affected employee knew or reasonably should have known of the existence of the grievance. Grievances not filed within the forty-five (45) day period are deemed waived and are not subject to being processed through this procedure.

The above forty-five (45) day limit may be waived for violations of Article III Section 1 - Work Day Work Week, Eight Hour Guarantee, Show Up Pay, Call Off and Prep Time. Also, Article III Sections 2 and 3. The liability shall be for three (3) years of the violation, verified by audit. Audit fees shall be paid for by the Company, along with a 10% penalty payable to the Union.

STEP 2. In the event the grievance cannot be resolved within seven (7) working days of the STEP ONE conference, it shall be reduced to writing and referred for conference and resolution by designated officials of the Union and the Contractor at a pre-grievance hearing to be held at the office of Local 150, 6200 Joliet Road, Countryside, Illinois unless another location is mutually agreed to.

STEP 3. In the event the grievance cannot be resolved by STEP TWO, the written grievance shall be submitted within fifteen (15) days to the Joint Grievance Committee created in this Article.

The Union and Association have together created a Joint Grievance Committee to resolve grievances arising under this Agreement. This Committee shall consist of an equal number of

members representing Employers and the Union. The Union or Association may appoint alternate members.

The Joint Grievance Committee shall have the power to resolve all grievances before it and shall have the right to examine all records of the Employers and employees as is reasonably necessary to resolve the grievance.

Where the Joint Grievance Committee, by majority vote, resolves a grievance, no appeal may be taken and such resolution shall be final and binding on all parties and individuals bound by this Agreement.

If the Joint Grievance Committee is unable to resolve a grievance by majority vote, the grievance may be submitted within thirty (30) days to a neutral arbitrator. If the Union and the Association or the Employer, as the case may be, cannot agree on an arbitrator, then an arbitrator shall be selected in accordance with the rules and procedures of the American Arbitration Association. The cost of such arbitrator shall be borne equally by both parties to the arbitration, and the decision of the arbitrator shall be final and binding on all parties and individuals bound by this Agreement.

The time limits provided in this Section may be extended by mutual written consent of the Union, the Association and/or the Employer.

Neither the Joint Grievance Committee nor an arbitrator shall have any authority to add to, detract from, or in any way alter the provisions of this Agreement or make a new Agreement.

Decision of the Joint Grievance Committee and Arbitration Awards shall be complied with within seven (7) days of receipt of the decision by the losing party. A party which fails to comply with the seven (7) day period shall be required to pay an

additional ten (10%) percent of the amounts as owed as liquidated damages for failure to comply with the decision or award. In the event the prevailing party is required to file suit to enforce the decision or award, and it prevails, it shall be entitled to recover its costs, including attorney's fees, from the losing party.

There shall be no lockout by an Employer during the term of this Agreement.

Except as provided in Article XX, Section 1 (Penalty for Failure to Pay Pension and/or Health and Welfare and/or Vacation Contributions and/or Dues Check Off), Section 2 (Penalty for Failure to Pay Wages), and Section 4 (Legitimate Picket Line) of this Agreement, there shall be no strikes or work stoppages by the Union during the term of this Agreement.

SECTION 2 - JURISDICTIONAL AWARD

Unless determined by Jurisdictional Award as hereinafter set forth, all work that has been heretofore performed under agreement or by custom or by area practice with any other local organization shall continue to be so performed until such Jurisdictional Award is made. Whenever a jurisdictional dispute shall arise between local labor organizations, the provisions of this Agreement shall prevail until a Jurisdictional Award has been made by the proper Jurisdictional Board of International Unions of which the local disputing Labor Organizations are members. The Employer agrees to abide by such Jurisdictional Award, but there shall be no work stoppage while the settlement of the dispute is pending. It is further agreed that the Employer will abide by such mutual agreement reached between the Local Union and other Local Unions and the International Union, including, but not limited to the